

REMARKS

This responds to the Final Office Action mailed on February 11, 2009.

No claims are amended or canceled in this response, and claims 90 and 91 are added; as a result, claims 1-8, 59-63 and 82-91 are now pending in this application.

§ 103 Rejection of the Claims

Claims 1-8, 59-63 and 82-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaminkow et al. (U.S. Publication 2003/0036425) in view of Nguyen et al. (U.S. 2006/0035707). Applicant respectfully traverses the rejection.

The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970); M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made

explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)).

As an initial matter, Applicant notes that U.S. Published Application 2006/0035707 to Nguyen et al (hereinafter Nguyen '707) cited in the Office Action is in fact a continuation-in-part of U.S. patent application Ser. No. 10/871,876, filed Jun. 17, 2004 (hereinafter "Nguyen '876), which in turn is a continuation-in-part of U.S. patent application Ser. No. 10/672,307, filed Sep. 26, 2003 (hereinafter Nguyen '307), which in turn is a continuation-in-part of U.S. patent application Ser. No. 09/882,558, filed Jun. 15, 2001, which is now U.S. Pat. No. 6,628,939 (hereinafter Nguyen '939). Applicant notes that Nguyen '307 and Nguyen '939 are the only applications that have an effective filing date prior to Applicant's filing date of November 11, 2003. The Nguyen '876 and Nguyen '707 continuation-in-part applications were in fact filed after Applicant's current application. Therefore material introduced in the Nguyen '876 and Nguyen '707 applications is not prior art with respect to Applicant's claims (see e.g., MPEP §706.02 VI (B) and §2136.02). If the Examiner intends to continue to rely on any of the Nguyen applications cited above in a future Office Action, Applicant requests that the Examiner identify the application serial number and elements of the specific application that the Examiner is relying on so that the Applicant may formulate an appropriate response.

Additionally, Applicant does not admit that Nguyen '307 is prior art and reserves the right to file a declaration under 37 C.F.R. §1.131 to swear behind the reference.

Nevertheless, Applicant respectfully submits that there are differences between the combination of Kaminkow with either of Nguyen '307 or Nguyen '939. For example, claim 1 recites "an information system communicably coupled to the network and including software operable on the system to associate location data with the reader component of each of the plurality of casino games . . ." Claim 59 recites the same language. Similarly, claims 82 and 86 recite "associating location data with each of a plurality of reader components in a gaming establishment having a plurality of casino games therein." The Office Action asserts that Kaminkow, at FIG. 1 and at paragraph [0007] teaches the recited language. Applicant respectfully disagrees with this interpretation of Kaminkow. None of the elements in FIG. 1, nor the elements described at paragraph [0007] teach or suggest associating any location data with a plurality of reader components. The player tracking system 120 of FIG. 1 and cited in paragraph

[00067] is further described by Kaminkow, at paragraphs [0012] - [0013], which states that the player tracking system is a system that "stores player tracking account records including the number of player tracking points previously accumulated by the player." Player tracking points are clearly not the same as location data. As a result, Kaminkow does not teach or suggest "an information system communicably coupled to the network and including software operable on the system to associate location data with the reader component of each of the plurality of casino games ..." as recited in claims 1 and 59, and similarly recited in claims 82 and 86.

With respect to claims 82 and 86, the Office Action states that Nguyen '707, at Fig.12B and paragraphs [0003], [0020]-[0021], [0083], [0087], [0119]-[0121] and [0150-0151] discloses the recited language. However, as noted above, Nguyen '707 contains subject matter that is not properly considered prior art. For example, Fig. 12B and paragraphs [0119]-[0121] and [0150-0151] relied on by the Office Action do not appear in Nguyen '307 or Nguyen '939. Further, paragraph [0003] merely states that "games such as keno and bingo may be played in areas specially configured to present the game to players (e.g., at areas where personnel pick up keno cards and called numbers are displayed on large displays)." Paragraphs [0020]-[0021] relate to authentication of a location, they do not state anything about tracking movement. Similarly, paragraph [0083] states that biometric and GPS data may be loaded onto a PGD (Personal Gaming Device). Paragraph [0087] states that GPS data is "obtained by the PGD regarding the location of the PGD." However, the data appears to be used with the biometric data to determine if the information matches previously obtained information, the data is not associated with a reader component. There is no teaching or suggestion in Nguyen '307 or Nguyen '939 of "associating location data with each of a plurality of reader components" as recited in claims 1, 59, 82 or 86.

Additionally, claims 1 and 59 recite that "upon detection of the RFID tag carried by the individual, the casino games send the data from the RFID tag to the information system and wherein the information system uses the data received from the casino games and the location data to determine the movement of the individual through the gaming establishment." Claims 82 and 86 similarly recite "recording information concerning the movement or activities of the individual in the gaming establishment as determined from reading the RFID tag carried by the individual in the gaming establishment and as determined by the location data." The Office

Action correctly states that Kaminkow “fails explicitly to disclose that the information system uses the data received from the casino games and the location data to determine the movement of the individual through the gaming establishment.” However, the Office Action attempts to make up for the deficiency by stating that Nguyen ‘707 “being in the same field of invention discloses that the information system uses the data received from the casino games and the location data to determine the movement of the individual through the gaming establishment (Fig.12B and para 0003, 0020-0021, 0083, 0087, 0119-0121 and 0150-0151; via PGD and GPS for the location or movement of player/individual).” As noted above, Nguyen ‘707 contains material that is not properly considered prior art. For example, Fig. 12B and paragraphs [0119]-[0121] and [0150-0151] relied on by the Office Action do not appear in Nguyen ‘307 or Nguyen ‘939.

Additionally, the remaining paragraphs disclose GPS data, but do not disclose any use of the GPS data beyond an implied use for matching the GPS data with previously obtained GPS data (see e.g., paragraph [0087]). Therefore none of Kaminkow, Nguyen ‘307 or Nguyen ‘939 teach or suggest “recording information concerning the movement or activities of the individual in the gaming establishment as determined from reading the RFID tag carried by the individual in the gaming establishment and as determined by the location data” as recited in claims 1, 59, 82 and 86.

In view of the above, material in Nguyen ‘707 is not prior art, and further, claims 1, 59, 82 and 86 recite multiple elements not found in any of Kaminkow, Nguyen ‘307 or Nguyen ‘939. Therefore there are differences between claims 1, 59, 82 and 86 and any combination of Kaminkow with Nguyen ‘307 or Nguyen ‘939. As a result, claims 1, 59, 82 and 86 are not obvious in view of any combination of Kaminkow and Nguyen ‘307 or Nguyen ‘939. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1, 59, 82 and 86.

Claims 2-8 depend either directly or indirectly from claim 1, claims 60-63 depend either directly or indirectly from claim 59, claims 83-85 depend from claim 82 and claims 87-89 depend from claim 86. These dependent claims are allowable for the reasons argued above, and are also patentable in view of the additional elements which they provide to the patentable combination. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03.

New Claims 90-91

Claims 90 and 91 have been added in this response. Support for claims 90-91 may be found throughout the specification, and at least on page 6 of the specification. Applicant believes that no new matter has been introduced in claims 90 and 91. Claim 90 depends from claim 1 and claim 91 depends from claim 82. Therefore claims 90 and 91 are allowable for at least the reasons discussed above regarding claims 1 and 82.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 11, 2009.

Rodney L Lacy

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Signature